

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

FORESTELL NORMAN SHEPPARD,)	
)	
Petitioner,)	
)	
v.)	No. 4:13 CV 1437 CDP
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

Petitioner seeks relief under the All Writs Act, 28 U.S.C. § 1651, in the form of a petition for writ of *audita querela*. I sentenced petitioner to a 240-month term of imprisonment in January 2000 for drug charges. United States v. Sheppard, 4:99CR204 CDP (E.D. Mo.). Petitioner filed a motion to vacate, set aside, or correct sentence in 2002, and I denied the motion on the merits in November 2004. Sheppard v. United States, 4:02CV341 CDP (E.D. Mo.). Petitioner now seeks a reduction in his sentence based on the United States Supreme Court’s decisions in Alleyne v. United States, 133 S. Ct. 2151 (2013),¹ United States v. Booker, 125 S. Ct. 738 (2005), and in other cases involving federal sentencing.

¹In Alleyne, the Supreme Court of the United States held that any fact that increases the mandatory minimum sentence for a crime is an “element” of the crime, not a “sentencing factor,” that must be submitted to a jury. Alleyne, 133 S. Ct. at 2155.


This Court has consistently held that post-judgment changes in law are not grounds for issuance of a writ of *audita querela*. E.g., Mitchell v. United States, 2013 WL 1149071 * 1-2 (E.D. Mo.); see also United States v. Ayala, 894 F.2d 425, 429 n. 8 (D.C. Cir. 1990). Petitioner has not presented any reason why his case should be decided differently.

Accordingly,

IT IS HEREBY ORDERED that petitioner's motion for leave to proceed in forma pauperis [ECF No. 4] is **GRANTED**.

IT IS FURTHER ORDERED that petitioner's petition pursuant to 28 U.S.C. § 1651 is **DISMISSED**.

Dated this 12th day of August, 2013.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE